

### **REMARKS**

This paper responds to the Office Action of May 12, 2009, in which the Examiner rejected claims 27-29, 32, and 43-50 under 35 U.S.C. § 102(b), and rejected claims 31 and 33-41 under 35 U.S.C. § 103(a).

In response, claims 27, 45, and 50 have been amended, and claims 51-52 have been added. In view of the amendments and the following remarks, reconsideration and allowance are respectfully requested.

#### **Rejection under 35 U.S.C. § 102**

Claims 27-29, 32, and 43-50 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent 5,098,397 (Svensson). The rejections are traversed for at least the following reasons.

#### **Independent Claim 27 is Not Anticipated by Svensson**

Claim 27 is directed to an implant comprising, in part, “a port structure comprising an outer wall having a substantially uniform outer circumference interrupted by a plurality of regions having areas of a smaller outer circumference, wherein a first region of the plurality of regions comprises one or more discrete tactile surface structures, and a second region of the plurality of regions comprises a plurality of discrete tactile surface structures, wherein each of said discrete tactile surface structures encircles the port structure and are arranged along a length of the port body that comprises at least a portion of an implant area such that each of said discrete tactile surface structures is subcutaneous when the implant is inserted into a body.”

Svensson discloses a percutaneous access device that includes “zone 9 for tissue penetration of the cutaneous passageway 1.” *Svensson*, column 2, lines 13-14. Svensson further discloses “a threaded screw cap 6 which is screwed into the outer cylinder 8.” *Svensson*, column 2, lines 2-4. In the Office Action, the Examiner relates Applicant’s one or more discrete tactile surface structures of the first region to a “single groove” in a “lip near 6” and Applicant’s plurality of discrete tactile surface structures of the second region to “grooves near 9.” *Office Action*, pages 2-3. As shown in FIGS. 1-2 of *Svensson*, the “single groove” referenced by the Examiner is provided entirely above the surface of the skin when the device is inserted into the

body. Claim 1 recites that each of the discrete tactile surface structures is “arranged along a length of the port body that comprises at least a portion of an implant area such that each of said discrete tactile surface structures is subcutaneous when the implant is inserted into a body.” Thus, the “single groove” does not anticipate the “one or more surface discrete tactile surface structures,” of claim 27.

For at least the foregoing reasons, Svensson does not anticipate the invention of claim 27. Reconsideration and allowance are thus respectfully requested.

*Independent Claims 45 and 50 are Not Anticipated by Svensson*

Claim 45 is directed to a method for producing an implant for implanting in a living body, comprising, in part, “providing a port structure comprising an outer wall having a substantially uniform outer circumference interrupted by a plurality of regions having areas of a smaller outer circumference, wherein a first region of the plurality of regions comprises one or more discrete tactile surface structures, and a second region of the plurality of regions comprises a plurality of discrete tactile surface structures, wherein each of said discrete tactile surface structures encircles the port structure and are arranged along a length of the port body that comprises at least a portion of an implant area such that each of said discrete tactile surface structures is subcutaneous when the implant is inserted into a body.”

Claim 50 is directed to an implant comprising, in part, “a port structure comprising an outer wall having a substantially uniform outer circumference having regions of interruptions, the regions comprising areas of a smaller outer circumference, wherein a first region interrupting the substantially uniform outer circumference comprises one or more discrete tactile surface structures, and wherein a second region interrupting the substantially uniform outer circumference comprises a plurality of discrete tactile surface structures . . . and wherein each of said discrete tactile surface structures encircles the port structure and are arranged along a length of the port body that comprises at least a portion of the implant area such that each of said discrete tactile surface structures is subcutaneous when the implant is inserted into a body.”

Claims 45 and 50 are patentable for at least the reasons presented above with respect to claim 27 and, further, in view of their additional recitations. Reconsideration and allowance are thus respectfully requested.

Claims 28-41, 43-44, and 46-49 depend either directly or indirectly from claim 27 or claim 45. Accordingly, these claims are patentable for at least the reasons presented above and, further, in view of their additional recitations. Reconsideration and allowance are thus respectfully requested.

**Rejection under 35 U.S.C. § 103**

Claims 31 and 33-41 were rejected under 35 U.S.C. § 103(a) as unpatentable over Svensson. The rejections are traversed for at least the following reasons.

As discussed above, Svensson does not disclose or teach the invention of claim 27. Claims 31 and 33-41 depend either directly or indirectly from claim 27. Accordingly, these claims are patentable for at least the reasons presented above and, further, in view of their additional recitations. Reconsideration and allowance are thus respectfully requested.

**New Claims**

Claim 51 is directed to a transcutaneous implant comprising, in part, “a port structure comprising an outer wall having a first region and a second region, each of the first and second regions having a substantially smooth surface, and a surface structure region disposed between the first and second regions, wherein the surface structure region comprises a plurality of discrete surface structures encircling the port structure and is arranged along a length of the port body that comprises at least a portion of an implant area.”

As discussed above, Svensson discloses a percutaneous access device that includes “zone 9 for tissue penetration of the cutaneous passageway 1.” *Svensson*, column 2, lines 13-14. As also discussed above, the Examiner asserts that the zone 9 includes “grooves.” *Office Action*, page 2. Assuming *arguendo* that the “grooves” of zone 9 may be appropriately characterized as “a plurality of discrete surface structures encircling the port structure and is arranged along a length of the port body that comprises at least a portion of an implant area,” Svensson still does

not anticipate the invention of claim 51 at least because the “grooves” of zone 9 are not disposed between first and second outer regions of the device having substantially smooth surfaces, as recited in claim 51. Allowance of claim 51 is thus respectfully requested.

Claim 52 depends directly from claim 51. Accordingly, claim 52 is patentable for at least the reasons presented above and, further, in view of its additional recitations. Allowance of claim 52 is thus respectfully requested.

**Conclusion**

No additional fees should be due in connection with this paper. However, the Commissioner is authorized to charge any additional fees, including extension fees or other relief which may be required, or credit any overpayment and notify us of same, to Deposit Account No. 04-1420.

The application now stands in allowable form, and reconsideration and allowance are respectfully requested.

Respectfully submitted,

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Date:

August 6, 2009

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